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January 24, 2013

Members of the House Local Government Committee,

Please accept my apology for missing Tuesday's hearing on HB 194, sponsored by Rep. Ingraham. For the record, the Montana Contractors' Association is opposed to a 100 percent increase in the statutory threshold local governments are afforded in determining when to advertise for competitive bids on projects funded through fuel taxes.

The Montana Contractors' Association strives to maintain a fair, level, competitive playing field for construction companies seeking to perform projects that are funded by taxpayers. We believe this position also benefits taxpayers, by assuring open competition, which forces construction firms to "sharpen their pencils" knowing they are competing with their peers for any given project.

We also support the statute that requires that contractors performing projects within the right-of-way on a public road, street or highway pay fuel tax on every gallon consumed in every piece of equipment. This tax is intended to maximize the revenue available to fund projects—especially those matched by federal fuel tax dollars. In essence, we agree to tax the fuel on these projects to create more projects—which benefit not only construction companies and their employees, but communities and the travelling public.

Speaking of "fuel taxes," we would like to point out the title of the bill refers only to "gasoline tax," which by definition, we believe, would not cover the tax paid on diesel fuel. This may render the bill impossible to implement.

Contrary to the arguments of some local governments, we believe the efficiency of this fuel tax revenue is diminished if local governments are given too much discretion. HB 194 allows a doubling of these scarce fuel tax dollars that can be awarded to companies that have not had to compete for the work. Granted, this may make sense in certain instances. But it also presents a much greater opportunity for abuse. It is relatively easy for a local government to assign a value of less than \$50,000 to several similar projects and award them to a favored construction firm over a brief period of time, with the sole intention of avoiding competitive bidding. The reason these statutes exist is to discourage favoritism, cronyism, "good old boy" networks, and unethical behavior that can creep into public/private business relationships without adequate safeguards.

For those reasons, we urge the committee to resist raising this limit by 100 percent. We can agree to a reasonable inflation factor, much as we are negotiating in SB 77, currently under consideration in the Senate Local Government Committee.

Thank you for your consideration, and again, I apologize for my absence at the hearing on HB 194.

Sincerely,

Cary Hegreberg  
Executive Director